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9 Attorneys for Plaintiff

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA,) No. CR 08-00361 RMW

15 Plaintiff,)

16 v.)

17 GARY JAMES ROLLER,)

18 Defendant.)

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**STIPULATION AND []
ORDER CONTINUING STATUS
CONFERENCE FROM DECEMBER 15,
2008 TO JANUARY 5, 2009 AND
EXCLUDING TIME FROM
DECEMBER 15, 2008 TO JANUARY 5,
2009, FROM CALCULATIONS UNDER
THE SPEEDY TRIAL ACT (18 U.S.C. §
3161)**

20 The parties hereby request that the Court enter this order continuing the status conference
21 from December 15, 2008 to January 5, 2009, and excluding time from December 15, 2008
22 through January 5, 2009. The parties, including the defendant, stipulate as follows:

23 1. The defendant understands and agrees to the exclusion of time from calculations under
24 the Speedy Trial Act, 18 U.S.C. § 3161, for the period from December 15, 2008 through January
25 5, 2009 based upon the need for the defense counsel to investigate further the facts of the present
26 case and determine what, if any, motions are appropriate. The government has produced
27 discovery in this case and the defense counsel and defendant require additional time to review
28

STIP. & [] ORDER
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1 and analyze this discovery. On December 5, 2008, the parties participated in a settlement
2 conference before Magistrate Judge Patricia V. Trumbull. Based on the settlement conference,
3 defendant and defense counsel need additional time to examine and analyze more thoroughly
4 some of the images found on defendant's computers and/or storage media. A status conference
5 will not be meaningful until after defendant and defense counsel has had an opportunity to
6 complete their investigation. For effective preparation of defense counsel, the parties agree that
7 the status conference currently scheduled for December 15, 2008 and should be continued to
8 January 5, 2009 at 9 a.m.

9 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
10 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
11 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
12 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for
13 the period December 15, 2008 through January 5, 2009.

14 Given these circumstances, the parties believe, and request that the Court find, that the
15 ends of justice are served by excluding from calculations the period from December 15, 2008
16 through January 5, 2009 outweigh the best interests of the public and the defendant in a speedy
17 trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

18 IT IS SO STIPULATED.

19 DATED: 12/6/08

/s/ Richard Pointer

20 RICHARD POINTER

22 DATED: 12/5/08

/s/ Hanley Chew

23 HANLEY CHEW

Assistant United States Attorney

24 **[:] ORDER**

25 Having considered the stipulation of the parties, the Court finds that: (1) the defendant
26 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18
27 U.S.C. § 3161, December 15, 2008 through January 5, 2009, based upon the need for the defense
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1 counsel to investigate further the facts of the present case, review the discovery that the
2 government has already provided and evaluate further possible defenses and motions available to
3 the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and
4 is in the defendant's best interests; and (3) the ends of justice are served by excluding from
5 Speedy Trial calculations the period December 15, 2008 through January 5, 2009.

6 Accordingly, the Court further orders that (1) the status conference set for December 15,
7 2008 is vacated and that the next appearance date before this Court is scheduled for January 5,
8 2009 at 9:00 a.m.; and (2) the time December 15, 2008 through January 5, 2009 is excluded from
9 time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

10
11 IT IS SO ORDERED.

12 DATED: 12/10/08


THE HONORABLE RONALD M. WHYTE
United States District Court Judge